

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**APPLICANTS: Schoenfeld *et al.*

SERIAL NUMBER: 09/806,400

EXAMINER: Ron Schwadron, Ph.D.

FILING DATE: March 30, 2001

ART UNIT: 1644

FOR: COMPOSITIONS FOR THE PREVENTION AND/OR TREATMENT OF  
ATHEROSCLEROSIS**Mail Stop: Appeal Brief - Patents**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF  
UNDER 37 CFR § 41.37**

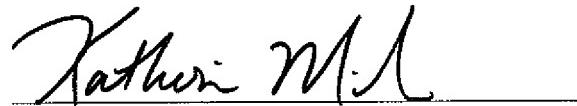
In response to the Notice of Non-Compliant Appeal Brief (the "Notice"), mailed November 24, 2009, Applicants submit a revised copy of the Appeal Brief timely filed on April 24, 2009, containing copies of the evidence submitted under 37 C.F.R. 1.132 as well as other evidence entered by the Examiner and relied upon by the appellant in the appeal, in accordance with 37 C.F.R. 41.37 (c)(1)(ix). This response is due on or before December 24, 2009.

The Examiner states in the Notice that the Bocan et al. reference was incomplete when it was first submitted in an information disclosure statement on December 7, 2005. Specifically, the Examiner alleges that the Bocan et al reference of record lacks pages 38 and 39. Appellants disagree and submit that when the Examiner initialed the Bocan et al. reference on February 23, 2006, he certified that the reference was received in a complete and acceptable form. The Examiner should have raised any objection to the Bocan et al. reference at the time it was submitted. However, to expedite acceptance of the Appeal Brief, Appellants resubmit the revised Appeal Brief with pages 38-39 of the Bocan et al. reference removed. Furthermore, Appellants submit that pages 37 and 40-52 of the Bocan et al. reference support the Appellant's arguments presented in the Appeal Brief.

Applicants believe that no additional fees are due in this filing, however, the Commissioner is authorized to charge any additional fees due, or credit any overpayment of same, to the undersigned's account, Deposit Account No. 50-0311, Reference No. 25619-501.

Should any questions or issues arise concerning this application, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,



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Dated: December 21, 2009